

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NIDA SMITH,

2:10-CV-735 JCM (RJJ)

Plaintiff,

V.

WMC MORTGAGE, et al.,

Defendants.

ORDER

Presently before the court are plaintiff Nida Smith's motions for a preliminary injunction (Doc. #4) and for a temporary restraining order (Doc. #5). Plaintiff seeks to enjoin defendants from enforcing any foreclosure or eviction actions on the property located at 4175 N. Tomsik Street, Las Vegas, Nevada 89129 while this case is pending.

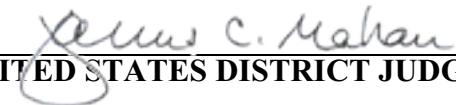
A preliminary injunction requires that the plaintiff establishes the (1) likelihood of success on the merits; (2) irreparable harm in the absence of preliminary relief; (3) balance of equities tipped in plaintiffs' favor; and (4) the injunction be in the public interest. *Winter v. Natural Resources Defense Council, Inc.*, - U.S. -, 129 S. Ct. 365, 374 (2008). Additionally, a plaintiff seeking a temporary restraining order must demonstrate a threat of immediate and irreparable injury, loss or damage. See Federal Rule of Civil Procedure 65.

Here, there is no danger of irreparable harm from an impending foreclosure because foreclosure is complete and plaintiff has already lost title. Although unclear, it also appears that plaintiff has failed to make payments on her mortgage loans since at least 2007, and therefore, the balance of equities does not tip in her favor. Furthermore, it is not in the public interest for the court

1 to use its equitable powers to allow citizens to remain in homes they no longer own. Accordingly,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff Nida Smith's
3 motions for a preliminary injunction (Doc. #4) and a temporary restraining order (Doc. #5) are
4 DENIED.

5 DATED June 15, 2010.

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8 UNITED STATES DISTRICT JUDGE
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